

REGION 5
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

'00 APR -5 P1:59

IN THE MATTER OF:)	Docket No. CAA-5-99-014
)	
R & L Marketing, Inc.)	Proceeding to Assess an
Fond du Lac, Wisconsin,)	Administrative Penalty
)	under Section 113(d) of the
)	Clean Air Act,
Respondent.)	42 U.S.C. § 7413(d)
_____)	

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On June 25, 1999, EPA filed the complaint in this action against Respondent R & L Marketing, Incorporated ("R & L"). The complaint alleges that R & L violated Section 608 of the Act, 42 U.S.C. § 7671g, and 40 C.F.R. §§ 82.154(m) and 82.166(a) and (m).

3. R & L filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. R & L admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

5. R & L waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

6. R & L certifies that it is complying fully with 40 C.F.R. §§ 82.154(m) and 82.166(a) and (m).

7. The parties consent to the terms of this consent agreement and final order (CAFO).

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

9. In consideration of the economic impact of the proposed civil penalty on Respondent, EPA agrees to mitigate the proposed penalty of \$1,711 to \$0.

Special Conditions for Sales and Distribution of Refrigerants

10. Pursuant to 40 C.F.R. § 82.154(m), R & L may not sell or distribute, or offer for sale or distribution, any Class I or Class II substance for use as a refrigerant in motor vehicle air conditioning systems to any person unless:

- (1) The buyer has been certified as a Type I, Type II, Type III, or Universal technician pursuant to 40 C.F.R. § 82.161;
- (2) The buyer has been certified pursuant to 40 CFR part 82, subpart B; or

(3) The refrigerant is sold only for eventual resale to certified technicians.

11. In order to ensure compliance with the requirements of 40 C.F.R. § 82.154(m), R & L Marketing agrees to take the following measures for a period of two years from the effective date of this Agreement. These measures are in addition to the requirements of 40 C.F.R. Part 82, Subpart F, including the reporting and recordkeeping requirements of 40 C.F.R. § 82.166:

(1) For all sales to a certified technician, R & L will obtain a photocopy of the purchaser's certified technician card.

(2) For purchaser's who are not certified technicians but who employ a certified technician, R & L shall obtain a photocopy of the employee's certified technician card and, for every sale, a written statement from the purchaser naming the certified technician and affirming that the certified technician is currently an employee of the purchaser.

(3) For all sales for eventual resale only, an R & L representative will read aloud to the buyer the statement on the form in Appendix A to this Agreement and use the form to record the purchaser's name, address, and telephone number, the date of sale, and the volume and type of refrigerant sold. The R & L representative and the purchaser must each sign the completed form.

(4) In all advertising for refrigerant including, but not limited to, flyers, print, radio, or television advertisements, R & L shall include in a prominent manner the following statement:

R & L Marketing may sell refrigerant only to persons who are certified technicians or who employ certified technicians, or to persons who will resell the refrigerant to certified technicians. Use of refrigerant for compensation (e.g., cash, credit, goods, or services) by persons who are not certified technicians is prohibited by Federal law.

(5) R & L will keep all records required by these special conditions for a minimum of three years and make such records available for inspection upon request by any U.S. EPA representative.

General Provisions

12. This CAFO settles EPA's claims for civil penalties for the violations alleged in the complaint.

13. Nothing in this CAFO restricts EPA's authority to seek R & L's compliance with the Act and other applicable laws and regulations.

14. This CAFO does not affect R & L's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

15. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine R & L's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

16. The terms of this CAFO bind R & L, and its successors, and assigns.

17. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

18. Each party agrees to bear its own costs and fees in this action.

19. This CAFO constitutes the entire agreement between the parties.

**U.S. Environmental Protection
Agency, Complainant**

Date: 3-31-00

By: 

Bharat Mathur, Director
Air and Radiation Division

R & L Marketing, Inc., Respondent

Date: 3-10-00

By: 

Jerry Lenz, President
R & L Marketing, Inc.

Appendix A

Date of sale:
Purchaser's name:
Address:
Telephone number:
Volume and type of refrigerant:

STATEMENT REGARDING USE OF REFRIGERANT

R & L Marketing may sell refrigerant only to persons who are certified technicians or who employ certified technicians, or to persons who will resell the refrigerant to certified technicians. If you purchase refrigerant for resale you may not use the refrigerant. For example, you cannot charge an air conditioner in a motor vehicle if you intend to sell the motor vehicle. You should be aware that use of refrigerant for compensation (e.g., cash, credit, goods, or services) by persons who are not certified technicians is prohibited by Federal law.

I certify that I read the above statement to _____ and that the foregoing information is true and complete to the best of my knowledge.

Date: 3-10-00

By: _____

R & L Representative

I certify that I understand the above statement and that the information I have provided to R & L Marketing is true and complete to the best of my knowledge.

Date: _____

By: _____

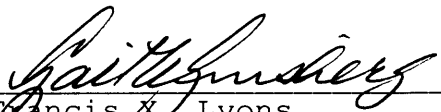
Purchaser

CONSENT AGREEMENT AND FINAL ORDER
R & L Marketing, Inc.
Docket No. CAA-5-99-014

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: 3/31/00

for 
Francis X. Lyons
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I, Shanee Rucker, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-5-99-014 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to R & L Marketing, Incorporated by placing them in the custody of the United States Postal Service addressed as follows:

Jerry Lenz, President
R & L Marketing, Incorporated
730 South Military Road
Fond du Lac, Wisconsin 54935

on the 5th day of April, 2000.

Shanee Rucker
Shanee Rucker
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 2199 026 503

RECEIVED
REGIONAL HEARING CLERK
REGION 5
APR -5 P1:59